

Laura H. Phillips
Partner
laura.phillips@faegredrinker.com
202-842-8891 direct

Faegre Drinker Biddle & Reath LLP
1500 K Street, NW, Suite 1100
Washington, DC 20005
+1 202 842 8800 main
+1 202 842 8465 fax

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VIA ELECTRONIC COMMENT FILING SYSTEM

Marlene H. Dortch
Secretary
Federal Communications Commission
45 L Street NE
Washington, DC 20554

Re: Notice of *Ex Parte* Meeting
Advanced Methods to Target and Eliminate Unlawful Robocalls
CG Docket No. 17-59

Dear Ms. Dortch:

On October 29, 2020, the undersigned and representatives of the National Opinion Research Center at the University of Chicago (“NORC”) met telephonically with Jerusha Burnett, Kurt Schroeder, Mark Stone, and Kristi Thornton of the Consumer and Governmental Affairs Bureau (“Bureau”). Representing NORC on the call were Jenny Kelly, Vice President of Telephone Surveys and Support Operations; Jeffrey Telgarsky, NORC Executive Vice President of Research; Gail McEnroe, Consultant (Robocalling) of Operations; and Kate Hobson, Director of Telephone Surveys and Support Operations.

NORC appreciates the Federal Communications Commission’s (“Commission” or “FCC”) commitment to combat illegal and harassing robocalls aimed at restoring consumers’ confidence in the legitimacy of incoming telephonic communications. As NORC noted in its comments and reply comments to the Fourth Notice of Proposed Rulemaking, however, the haste in implementing “call blocking by default” without specified guardrails and processes to ensure that legitimate calls are not erroneously labelled or blocked has created collateral damage. NORC and others callers, as reflected in the record, have experienced material and unresolved “false positive” call blocking without notice or effective remedy that must be addressed when the Commission again acts in this area.¹

As previously noted in its comments, NORC is an objective, non-profit, non-partisan research institution contracted by the U.S. Centers for Disease Control and Prevention (“CDC”) to make calls for its annual National Immunization Survey (“NIS”). The purpose of these calls,

¹ See generally NORC Reply Comments (Sept. 29, 2020), <https://ecfsapi.fcc.gov/file/1092967828730/Reply%20Comments%20-%20NORC%209-29-2020.pdf>; NORC Comments (Sept. 1, 2020), <https://ecfsapi.fcc.gov/file/108310552227737/Comments%20to%204th%20FNPRM%20-%20NORC%208-31-2020.pdf>.

calling patterns, and the three telephone numbers used by NORC are publicly known and prominently displayed on the CDC website (<https://www.cdc.gov/vaccines/imz-managers/nis/index.html>). NORC's identity and use of these three numbers to call on the CDC's behalf is or should be known to its originating carrier, which charges NORC for its services and also provides NORC with these assigned telephone numbers.

NORC shared with the Bureau staff its experience that the erroneous call blocking problem has been significantly exacerbated and NORC has no notice that calls are being blocked or by whom. NORC has experienced a significant increase in busy signals for the three phone numbers used for the NIS since the adoption of the "call blocking by default" framework but lacks any actionable information as to whether calls are being blocked or tagged, and if so who is blocking or tagging calls and why. NORC engaged a reputation management entity, Neustar, to "treat" two of its outbound NIS phone numbers for a not insignificant monthly fee. That means Neustar registers these numbers with major carriers to ensure that they are not blocked or tagged as "fraud" or "spam," monitors the status of these two phone numbers, and intervenes on NORC's behalf with the carriers when these numbers are erroneously blocked or mislabeled as spam or fraud.

When NORC encountered an increase in busy signals for two numbers from less than 2% to nearly 26% for a period of about two weeks in early summer 2020, NORC's originating carrier did not provide any distinct return tone to signal nor notify NORC that it was blocking the two treated CDC NIS numbers. NORC suspected that the sudden increase of busy signals indicated that its numbers were blocked by one or more carriers' networks. But because NORC's originating carrier provided no information or alerts, NORC turned to Neustar to investigate the cause of the increased busy signals. Neustar reported that NORC's originating carrier had classified its numbers as "potential fraud" and said the carrier typically blocks numbers tagged as "potential fraud." After the erroneous tagging and blocking was resolved, NORC contacted its originating carrier directly, hoping to learn about why it – or its chosen analytics company - tagged these CDC NIS numbers as "potential fraud," despite their known identity and use. NORC's carrier provided no explanation.

This situation illustrates a serious flaw either in carrier/analytics providers' processes or in the FCC's current framework according carriers safe harbor treatment without first ensuring they are notifying their customers of blocking in an immediate and meaningful way. Without a clear obligation to provide prompt notification and information about calls or specific numbers being blocked, many callers like NORC would not become aware of blocking, which means they are deprived of any meaningful opportunity to start addressing this serious problem. NORC representatives therefore urged the FCC to require that carriers use a separate and distinct signal that would act as notification in real time to callers that a call has been blocked.

NORC's experience demonstrates that "market solutions" already have failed to provide any meaningful opportunity to seek redress; they are not the answer. NORC representatives shared with the Bureau the process it used to further investigate sudden drops in its NIS call completion rate. Specifically, NORC had Neustar "treat" two of the three NIS numbers, leaving the third NIS number out as a "control" to monitor the call blocking experience of an untreated CDC NIS number.

The difference in call completion rate between the treated and untreated numbers was significant. Over the course of the last two months, the untreated number experienced 49% fewer completed interviews per 100,000 lines dialed than calls made from the two treated numbers. This has significant implications for the efficiency of this CDC critical annual public health survey. In order to reach the same proportion of potential NIS survey participants for each phone number to complete interviews, NORC expended 28% more in labor costs because it had to dial that many more numbers when calling on the untreated third number to reach potential survey participants. NORC also reported to the Bureau that calls made from the

untreated third number were more likely to result in a busy signal, were more often to be forwarded directly to voicemail, and were more frequently hung up manually by a survey recipient (presumably due to their being mislabeled as “potential fraud” or some other disparaging or false label).

To NORC, it is plain that relying on “market solutions,” at least in their current state, simply does not provide any meaningful resolution. As an example of this, NORC shared that it reached out directly to its originating carrier several times in the past month to seek a remedy. Even with follow-up by NORC, more than two weeks later, this erroneous blocking has still not been addressed or remedied. Because NORC’s experience demonstrates that carriers currently are not taking action to promptly investigate or resolve an erroneous blocking inquiry, the FCC cannot reach the conclusion that the current framework provides adequate transparency or redress. NORC therefore urged that the Commission specify a time frame – at most a few days – within which carriers must resolve call blocking investigations, including having escalation processes that can be followed if callers requests are not investigated promptly.

The circumstances require that the Commission not extend safe harbor protections without first addressing existing notice and “false positive” labelling problems. Carriers have argued on the record that providing the necessary and legally required transparency to callers about blocking will fail to protect “proprietary blocking analytics.” Similarly, some industry entities have hailed the “call blocking by default” framework as a “real money-making opportunity.” FCC policy should acknowledge and reflect that carriers, analytics providers and reputation managers lack any monetary incentive to effectively tackle the false positive/lack of notice/redress problem and the FCC accordingly should resort to effective rules that condition safe harbors on specific performance. The safe harbor framework today fails to yoke any accountability for the application of mistaken analytics or failures by carriers to promptly investigate and resolve false positive blocking to earn the benefit of a safe harbor; that must be changed.

The record provides examples that many categories of legitimate callers have found it to be increasingly difficult to get their calls through even after doing all they can to observe legal and regulatory requirements.² Allowing flexibility without sufficient structure on fundamental TRACED Act requirements of transparency and redress for callers fails to recognize or fully implement these statutory requirements. NORC therefore strongly urges the Commission to not extend carriers additional safe harbor protection until carriers have at least implemented clear notification and prompt redress mechanisms and demonstrated their efficacy.

² See, e.g., TCN, Inc. *Ex Parte* Letter, 3 (Oct. 29, 2020), [https://ecfsapi.fcc.gov/file/10292987801269/TCN%20Ex%20Parte%20\(SIP%20Codes%20and%20Presumption\)%2010.29.20.pdf](https://ecfsapi.fcc.gov/file/10292987801269/TCN%20Ex%20Parte%20(SIP%20Codes%20and%20Presumption)%2010.29.20.pdf); National Association of Federally-Insured Credit Unions Comments, 1-2, 4 (Aug. 31, 2020), <https://ecfsapi.fcc.gov/file/10831097972676/NAFCU%20Comment%20on%20FCC%20Fourth%20FNPR.pdf>; Reply Comments of Telnyx LLC, 2 (Aug. 31, 2020), <https://ecfsapi.fcc.gov/file/10831194455850/Telnyx%204th%20Robocalling%20FNPRM%20Comments%20-%20August%2031%2C%202020.pdf>.

NORC welcomes any future opportunity to discuss solutions that can improve call completion outcomes while demonstrating measurable results in combatting illegal calls and malicious spoofing. Please contact the undersigned with any questions regarding this letter.

Respectfully submitted,



Laura H. Phillips
Counsel to the National Opinion Research Center

cc: Jerusha Burnett
Kurt Schroeder
Mark Stone
Kristi Thornton